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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,852	06/20/2000	Kenneth H. Mollenauer	212/262	7145

23371 7590 04/08/2003

CROCKETT & CROCKETT  
24012 CALLE DE LA PLATA  
SUITE 400  
LAGUNA HILLS, CA 92653

EXAMINER

THANH, LOAN H

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 04/08/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/598,852	MOLLENAUER, KENNETH H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LoAn H. Thanh	3763	

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,9-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

The rejection applied under Swartz et al. has been obviated. However, the rejection under Ramsey, III is being maintained.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5,9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ramsey, III ( 6,148,222).

Ramsey, III discloses a device having a catheter body, a first and second balloon located at the distal end of the catheter, a first and second heating element (20) and wires ( 19). See figures 1- 7 . Specifically , fig. 5 shows a plurality of balloons, plurality of suction lumens and plurality of heating element and wires. See fig. 6 and 7

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at heating elements ( 20 a and 20b). It is inherent that there is a vacuum source operably connected to the suction lumen. Ramsey, III discloses that ports 18 may function as aspiration ports. See col. 4. line 24-26.

### ***Response to Arguments***

Applicant's arguments filed 03/14/03 have been fully considered but they are not persuasive.

Applicant appears to be arguing intended use. . With respect to the limitation of the vacuum source coupled to the suction lumen, it is considered to be inherent.

With respect to the heating element, Ramsey et al. does teach heating elements being considered by the Examiner as the electrodes. Ramsey, III , does avoids burns but the claimed limitation is for a heating element, and it is still considered to be a heating element since there is an electrical current which passes through the electrodes, heat would still be existent.

Applicant is reminded that the claims are directed to a device and without distinguishing structural limitations the prior art of record still anticipates the claim. The intended is of the imposes no limitation to the claim in the absence of distinguishing features.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is

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(703) 305-0038. The examiner can normally be reached on Monday to alternating Fridays (7:00 am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A handwritten signature in black ink, appearing to read 'LoAn H. Thanh', with a stylized, cursive script.

LoAn H. Thanh  
Examiner  
Art Unit 3763

LT